Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Bell Operating Companies	)	CC Docket No. 96-21
Provision of Out-of-Region	)	
Interstate, Interexchange Services	)	

AMERITECH REPLY

Ameritech respectfully submits this reply to comments in the above-captioned proceeding. For the reasons discussed below and in Ameritech's initial comments, the Commission should hold that Bell Operating Companies (BOCs) are nondominant in the provision of out-of-region long-distance services, regardless of whether they provide such services through a separate affiliate or not. The Commission should hold, further, that its Part 64 requirements do not apply to regulated out-of-region long-distance services, at least to the extent such services are provided by a BOC that is subject, at the state and federal level, to regulatory regimes, such as pure price cap regulation, under which rates are unaffected by rate-of-return.

A. Background and Summary

The Commission initiated this proceeding to consider the regulatory status of BOC out-of-region long-distance service. In the Notice of Proposed Rulemaking, released February 14, 1996, the Commission tentatively concludes that BOCs are nondominant in the provision of out-of-region

services if they provide such services through a separate affiliate that satisfies the conditions set forth in the Fifth Report and Order in the Competitive Carrier proceeding.[1] The Commission also sought comment on whether it should treat BOC out-of-region service as a nonregulated service for purposes of its Part 64 cost allocation rules. Such treatment would require the BOCs to follow Part 64 procedures for allocating joint and common costs between their out-of-region service and their other regulated services.

In its comments, Ameritech opposes the Commission's tentative conclusion that nondominant status should be predicated on the establishment of a separate affiliate. Ameritech notes that this tentative conclusion is at odds with the Commission's own observation that BOCs would not be likely to possess market power in the provision of out-of-region service. In addition, Ameritech points out that a separate affiliate requirement for nondominant status would be inconsistent with the Telecommunications Act of 1996 (the 1996 Act), which does not include out-of-region service within the list of services for which separate subsidiaries are required. Ameritech also opposes the Commission's proposal to treat out-of-region service as a nonregulated service for purposes of the Part 64 rules, particularly as to any BOC that is subject, at the state and federal level, to regulatory regimes, such as price caps without sharing, under which its rates are independent of its rate-of-return.

In their comments, the other BOCs echo Ameritech's views. Although in deference to the Commission's efforts to expedite this proceeding, two

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[1] Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Therefor, Fifth Report and Order, 98 FCC 2d 1191 (1981) (Fifth Report).

BOCs indicate that they do not oppose a separate affiliate requirement on an interim basis, all demonstrate that no such requirement is necessary.[2]

Predictably, however, the BOCs' competitors favor the proposed separate requirement or, more typically, fault the Commission for being insufficiently regulatory.[3] Indeed, in a transparent effort to gain marketplace advantages, most of them ask the Commission to add a host of excessive and burdensome conditions to the already unnecessary separate affiliate requirement the Commission proposes.

Significantly, none of these parties shows why any of these conditions are necessary to prevent the exercise of market power by a BOC in out-of-region services.[4] Indeed, none shows why even the affiliate requirements

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2 See BellSouth Comments; SBC Comments; Bell Atlantic Comments; US West Comments. See also Pacific Telesis Comments (separate affiliate requirement acceptable on interim basis but should be promptly eliminated); NYNEX Comments (for now, separate affiliate requirement represents appropriate first step).

3 See Vanguard Cellular Systems, Inc. Comments and UTC (supporting tentative conclusion). See, e.g., MCI Comments; CompTel Comments; Telecommunications Resellers Association (TRA) Comments; Association for Local Telecommunications Services (ALTS) Comments; AT&T Comments (urging more stringent measures). See also Comments of Public Utilities Commission of Ohio (urging full structural separation).

4 AT&T argues that the Commission has held that there is a single, nationwide long-distance market and that the Commission's proposal to declare the BOCs nondominant in out-of-region services only departs from this precedent. AT&T Comments at 4-5. AT&T's argument, however, is premised on the notion that the BOCs remain dominant in in-region long-distance services. This premise is flawed. The Commission has already indicated that the BOCs will be treated as nondominant in-region, subject to future consideration of what degree of separation, if any, would be required. Pending that decision, there is no reason the Commission cannot consider out-of-region services, particularly since no BOC has yet been authorized to provide in-region interLATA services. In any event, AT&T's argument is highly disingenuous. Given that from 1991 until being declared nondominant last year, the Commission streamlined its regulation of AT&T on a service-by-service basis, it is hardly credible for AT&T to now argue that all services are subject to the same level of competition and that the Commission must regulate them all the same. Indeed, not only was the Commission's approach in the AT&T streamlining docket inconsistent with AT&T's argument, its price cap regime for AT&T was also inconsistent with this argument. After all, a central premise of the Commission's price cap

proposed by the Commission are necessary. Nor do any of them explain how the conditions they propose can be reconciled with the clear language of the 1996 Act. That being the case, the Commission must declare the BOCs nondominant without conditions.[5]

B. BOCs Are Nondominant in Out-of-Region Service, Regardless of Whether They Provide Such Service Through a Separate Affiliate

As discussed in Ameritech's initial comments, there is no reasonable basis upon which the Commission could conclude that the BOCs could possibly exercise market power in the out-of-region marketplace, regardless of whether they provide out-of-region service through a separate affiliate. The BOCs will be entering this marketplace with no customers, no traffic, no revenues, no facilities, and little or no name recognition.[6] They will be competing against four carriers with nationwide networks, millions of

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regime for AT&T was that different services are subject to different levels of competition and must therefore be separated into different baskets.

5 The Commission may only condition nondominant status upon a requirement, such as a separate affiliate requirement, if it can show that such requirement is necessary to prevent the exercise of market power. That is, in fact, why the Commission took pains, in declaring AT&T nondominant, to state that the commitments made by AT&T with respect to residential service pricing and resale were not relevant to the Commission's determination of whether AT&T is nondominant. See Motion of AT&T Corp. to be Reclassified as a Non-Dominant Carrier, FCC 95-427, released October 23, 1995, at para. 84. Ameritech believes that the Commission cannot possibly show that a separate affiliate requirement is necessary to prevent the exercise of market power in out-of-region services. That being the case, the Commission cannot link this requirement to nondominant status. If the Commission thinks the requirement is justified for other reasons, it should initiate a proceeding in which it proposes to mandate such a requirement on a stand-alone basis, and the proposal could be assessed in that context.

6 In contrast, AT&T boasts that "surveys consistently confirm the power of AT&T's brand. Anywhere between 30 and 60 percent of the people in the U.S. still think AT&T is their local phone company. . . . We now have about 60% of the long distance market in the U.S. That translates into a relationship with some 90 million customers and gives us an enormous opportunity as we extend the brand into new areas." "Keeping the Customers Satisfied," Remarks by Joseph P. Nacchio, Executive Vice President, AT&T Consumer and Small Business Division, to Morgan Stanley Conference, February 13, 1996 (AT&T Remarks).

customers and billions of revenues, as well as hundreds of other carriers. Given these facts, market power is simply not a possibility. Indeed, the Commission acknowledges this in the Notice.

MCI, undoubtedly aware of the power of this argument, attempts to dismiss it as irrelevant. It states that "such matters as the BOCs' low interexchange market shares and the presence of established interexchange rivals are beside the point."[7] Were this not the case, it claims, the Commission would not have conditioned the nondominant status of independent local exchange carriers (LECs) on a separate affiliate requirement, or indicated in the Fifth Report that BOCs would be treated as dominant in interLATA services until the Commission determines what degree of separation, if any, should be required for nondominant status.

MCI's argument is clearly specious. The Commission has long held that regulatory status is based on the presence or absence of market power, and that, among the factors to be considered in determining whether a firm has market power, are the number and size distribution of competing firms, the nature of barriers to entry, and the availability of reasonably substitutable services. While, to be sure, the Commission also considers whether the firm can impede new entry through control of bottleneck facilities, this is just one additional, albeit important, factor to be considered in the market power analysis. Other factors that would tend to indicate the absence or presence of market power must also be considered. In the context of out-of-region

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7 MCI Comments at 8.

service, those other factors are not only compelling, they are dispositive, because the relevance of any bottleneck is dubious at best.

The fact that the Commission conditioned nondominant status for independent LECs on the establishment of a separate affiliate requirement and that it indicated that some level of separation might also be required of BOC interLATA operations is in no way inconsistent with this point. In both contexts, the Commission was considering the regulatory status of in-region, as well as out-of-region, long-distance services. Particularly, given that the Fifth Report was adopted in 1984 -- before the separate subsidiary requirements were lifted for customer premises equipment and enhanced services, when equal access was in its infancy, and before price cap regulation existed -- it is hardly surprising that the Commission concluded that some level of separation might be necessary to prevent the exercise of market power in in-region services.

Finally, Ameritech notes that when competition for AT&T's services was first emerging, the FCC felt it necessary to help new competitors. To this end, it established steep access charge discounts for non-Feature Group D service, implemented the equal charge per unit of traffic rule and adopted an interim local transport rate restructure to cushion the transition to more economically efficient pricing, and adopted an asymmetric regulatory regime under which AT&T's tariffs were subject to strict scrutiny, while its competitors enjoyed the benefits of forbearance. Ameritech finds it ironic that, having secured a comfortable market position with the benefit of these substantial advantages, some of these same carriers are urging the Commission to impose handicaps on today's new entrants. Indeed, the

advantages they claim the BOCs would have -- for example, the ability to market local and out-of-region service to customers who announce that they are moving to an out-of-region area or to customers with out-of-region offices or homes -- pale in comparison to the benefits these carriers enjoyed. That should give the Commission some sense of how difficult it is to catch up to AT&T in the long-distance market, much less acquire market power vis-a-vis AT&T.

In short, given the comparative positions of the BOCs and the incumbent long-distance carriers in long-distance services, it is difficult to imagine how a BOC could exercise market power -- i.e., control the market price -- in any long-distance service, much less in out-of-region services. On the contrary, it is clear that they could not, whether they provide service on an integrated or separated basis. It is therefore incumbent upon the Commission to drop its proposed separate affiliate requirement and find the BOCs nondominant in the out-of-region marketplace.

C. BOCs Do Not Have the Ability to Exercise Market Power in Out-of-Region Services Through Discrimination and Cross-Subsidization

The sole argument of those who urge the Commission to treat the BOCs as dominant or impose additional restrictions on their provision of out-of-region long-distance service is that the BOCs could use so-called "bottleneck control" over in-region facilities to gain a marketplace advantage. Principally, they allege that the BOCs could discriminate against competing interexchange carriers and cross-subsidize their own long-distance operations. As an initial matter, Ameritech disputes the assertion that it maintains bottleneck control over in-region facilities. While the BOCs' long-distance

competitors use that phrase loosely, the Commission has defined "bottleneck control" as "when a firm or group of firms has sufficient command over some essential commodity or facility in its industry or trade to be able to impede new entrants."[8] While pre-divestiture AT&T may have exercised this ability, there is no evidence that any BOC could ever impede long-distance entry, even if it wanted to. Any such effort would be a blatant violation of the equal access obligations and would surely be reported and severely punished.

Moreover, to the extent any bottleneck control may have previously existed, the 1996 Act eliminates it. That Act eliminates not only legal barriers to local exchange competition, but also economic ones. Through the checklist requirements of section 251, the Act ensures that local exchange competition will develop quickly and on a sustainable basis. Not only are incumbent LECs required to provide interconnection, dialing parity, number portability, access to poles, conduits, etc., but also access to network elements and resale at wholesale rates. These latter two provisions are particularly significant because they enable competing LECs to enter the market rapidly and with little capital investment. Moreover, the BOCs have every incentive to implement these provisions as quickly as possible, since their ability to provide in-region interLATA service depends on it.

In any event, debates about whether or not BOCs maintain bottleneck control over in-region facilities are nothing more than a red herring. The issue here is not the regulatory status of the BOCs' local exchange or access

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8 Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor, First Report and Order, 85 FCC 2d 1 (1980).

services; it is the regulatory status of their out-of-region long-distance service. Local bottlenecks, to the extent they do exist, are largely irrelevant to out-of-region service. To be sure, the BOCs' long-distance competitors would have the Commission believe otherwise. Their tales of potential discrimination and cross-subsidization, however, are the stuff of fantasies. They bear no relation to reality.

1. Discrimination

A case in point is the assertion that a BOC could discriminate in-region against its out-of-region competitors and thereby damage their service and reputation on a national basis. It is significant that while this assertion is oft-repeated in the comments, no party explains exactly how such discrimination could occur.[9] No one explains, for example, what form this discrimination could take or how it might be effected, particularly given that BOC switching equipment is fully automated. Nor does anyone explain how discrimination is possible, given that the BOCs, which have no out-of-region facilities of their own, will have to rely on the facilities of other carriers to provide service, at least in the short-term.

Likewise, no one explains how discrimination could occur on such a widescale basis as to "damage the service and reputation" of a long-distance company without that company being aware of such discrimination.

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[9] The only commenters that even purport to address this issue are MCI and TRA. The sum total of their explanation is as follows: "The interface between the IXC and the BOC at the terminating end of an interexchange call is becoming increasingly sophisticated, particularly with respect to signaling information. As a result, BOCs have the ability to discriminate in favor of their long distance operations in providing new interfaces at the terminating end of interexchange calls." MCI Comments at 8. See also TRA Comments at n. 26, which are virtually identical.

Moreover, all of the facilities-based long-distance companies have aggressive "vendor management" programs which regularly, and with great precision, record virtually every aspect of the access services provided to them. Any service degradation would immediately be detected by automatic test equipment and performance monitoring devices employed by these carriers. The notion that systematic discrimination that is apparent to consumers and thus damages a company's reputation and service could occur without a company being aware of it is patently absurd.

Nor does anyone explain why, given that the BOCs are themselves seeking in-region long-distance authority, any BOC would possibly embark on such a foolish course in any event.[10] And finally, no one explains how, if a BOC is intent on discriminating, a separate subsidiary requirement or dominant carrier regulation would prevent this from occurring anyway.

No one explains these matters, because there is no explanation. Scratch beneath the surface, and nothing's there, only empty rhetoric. In truth, commenters are not really concerned about discrimination at all. There is no such risk, not in the real world, and there is certainly no risk of widespread undetected discrimination that could damage the national reputation of a carrier. The real agenda of the long-distance industry is to handicap new entrants in the marketplace with onerous separate subsidiary requirements and other anticompetitive restrictions or, even worse, dominant carrier

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10 Certainly systematic discrimination by a BOC in its provision of access service to long-distance competitors would be ample ground to deny a BOC in-region application on public interest grounds. Indeed, even after entry is approved, the Commission has authority to suspend or revoke such authority pursuant to section 271(d)(6).

regulation. That's the agenda -- not preventing discrimination -- and the Commission should not be fooled into thinking otherwise.

It is telling that the same arguments about discrimination were made with respect to BOC provision of enhanced services and customer premises equipment. Yet the Commission has noted that there is no evidence that any BOC has ever discriminated against a competing enhanced service provider (ESP).[11] Indeed, the Commission has observed that "the continuing vibrancy of the enhanced service market . . . appears to suggest that provision by the BOCs of enhanced services pursuant to nonstructural safeguards has not proved seriously detrimental to competition."[12] As the Commission recognized:

> [t]he existence of well-established competing ESPs appears to make it more difficult for BOCs successfully to engage in access discrimination. As the California I court stated, the Commission could reasonably conclude that large competitors like IBM could be relied on to monitor the quality of access to the network, reducing the ability of BOCs to discriminate.[13]

Just as IBM can be relied on to ensure that no BOC discriminates in the provision of access to BOC services, there can be no doubt that AT&T, MCI, Sprint, and the other incumbent long-distance carriers can be relied upon to do the same.

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11 Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services, CC Docket No. 95-20, FCC 95-48, released Feb. 21, 1995, at para. 29.

12 Id.

13 Id. at para. 33.

In fact, Ameritech has made only modest inroads in the enhanced services marketplace, and its market share in enhanced services remains extremely small. Given that BOCs in general -- and Ameritech in particular -- have been providing enhanced services in-region, on an integrated basis, and subject to full deregulation, without impeding competition, and certainly without acquiring market power in enhanced services, it is difficult to fathom arguments that the BOCs must be subject to full structural separation and other restrictions to prevent the exercise of market power in out-of-region long-distance services.[14]

2. Cross-Subsidization

The other argument that is generally raised by those advocating so-called "safeguards" and/or dominant status is that the BOCs could cross-subsidize their provision of out-of-region service with "monopoly revenues" from the local bottleneck. Sprint, for example, argues that a BOC might terminate in-region traffic without fully imputing access charges to its long-distance operations. CompTel speculates that a BOC might cross-subsidize its out-of-region service through shared customer support, billing and collection, and operator handling. These parties and others argue that, in order to prevent cross-subsidization, the Commission should require BOCs to comply

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14 CompTel argues that incumbent LECs might discriminate in favor of other BOCs with whom they have a "cooperative arrangement" and that BOCs should therefore be treated as dominant when originating traffic in the serving area of any incumbent LEC with whom they have such an arrangement. CompTel defines "cooperative arrangement" as including, inter alia, a partnership, joint venture, or any other arrangement where the two entities share in profits or revenues. CompTel Comments at 12-13. This request is frivolous. Any suggestion that a LEC would discriminate in favor of another BOC just because the two had some joint venture -- for example, in video programming -- is not only speculative, but patently absurd. Moreover, as noted above, no one explains how systematic discrimination could occur without detection, even if a carrier were inclined to engage in it.

with strict structural separation requirements, such as those set forth in section 272 of the 1996 Act.

Significantly, of all the parties touting the risk of cross-subsidization, only one, MCI, even acknowledges the existence of price cap regulation. MCI, however, dismisses its significance on the ground that some BOCs can elect a sharing option. Apart from the fact that Ameritech has elected the no-sharing option, the Commission noted that, even with sharing, price caps "substantially curtail[] the economic incentive to engage in cross-subsidization.[15] Moreover, the Commission has recognized that a system of "pure" price caps, with no sharing of earnings, effectively eliminates any incentive for cost shifting."[16] That being the case, the Commission need not concern itself with cross-subsidization at all, at least by carriers subject to pure price caps, or other regimes that sever the connection between prices and rate-of-return.

As for other carriers, the Commission has long held that cost accounting is an effective tool to prevent cross-subsidization. Indeed, the Commission has so held even with respect to the provision of completely deregulated services. The Commission already has rules in place that require the BOCs to separately account for their interexchange costs. Specifically, the Part 69 rules already require the BOCs to identify interexchange costs and allocate them to a separate price cap basket. While these rules are more than

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15 See,e.g., Policy and Rules Concerning Rates for Dominant Carriers, 4 FCC Rcd 2873, 2924 (1989).

16 Price Cap Performance Review for Local Exchange Carriers, 10 FCC Rcd 8962 (1995) at para. 187.

adequate to ensure proper cost allocation, if the Commission believes otherwise, it can modify Part 64 to apply those rules to BOCs that are not subject to pure price caps in all jurisdictions.

To summarize, there is no credible basis upon which the Commission could conclude that the BOCs have the ability to discriminate or cross-subsidize, to the benefit of their out-of-region long-distance operations. There is certainly no basis for a conclusion that discrimination or cross-subsidization could occur at such a level as to confer market power on a BOC's out-of-region operations. There is thus no need for the Commission to condition nondominant status on the affiliate requirements it proposes, much less stricter structural separation requirements, such as those set forth in section 272. Certainly, Congress did not intend such a result, given that it excluded out-of-region service from the list of services subject to structural separation. Nor is it necessary for the Commission to adopt any of the other "safeguards" proposed in the comments.

D. There is No Need for Joint Marketing Restrictions

Some parties ask the Commission to prohibit BOCs from jointly marketing in-region local and out-of-region long-distance services.[17] As an initial matter, Ameritech notes that, like the proposed separate affiliate requirement, such joint marketing restrictions would be inconsistent with the 1996 Act. Indeed, the Act permits BOCs not only to jointly market local and out-of-region service, but also local and in-region long-distance services,

17 See, e.g., AT&T Comments at 7-8; CompTel Comments at 9-10.

once in-region authority is received. Having failed to convince Congress to impose joint marketing restrictions, the long-distance industry should not achieve, through back-door conditions for nondominant status, the anticompetitive advantage they were unable to achieve in legislation.

Moreover, the suggested joint marketing limitation is wholly unnecessary. The number of customers to whom a BOC would be able to jointly market out-of-region long distance service and local exchange service is likely to minimal. Therefore, the proposed restriction has nothing to do with preventing the exercise of market power. Moreover, contrary to the assertion of those advocating joint marketing restrictions, the BOCs are at a competitive <u>disadvantage</u> in serving the out-of-region needs of their local exchange customer. That is because, until a BOC receives in-region interLATA relief, it cannot fully serve the needs of customers with in-region and out-of-region facilities. To use a BOC for out-of-region service, those customers would have to bifurcate their service between two carriers and forego the volume discounts that concentrating their traffic would allow.

In reality, the proposed joint marketing restrictions are nothing more than a stalking horse for similar arguments that will be made in the context of the BOCs' in-region regulatory status. Those advocating joint marketing restrictions are hoping the Commission will "box itself in" with respect to in-region joint marketing by limiting joint marketing in the out-of-region context. The long-distance industry is well-aware of the importance of joint marketing to a competitor's viability. As AT&T has stated:

> [O]ur research shows that . . . about two out of three people will want to bundle long distance and local services. . . .

> Customers have always liked bundles. In fact, they've never really distinguished between local and along distance services. It's not a logical separation in their minds. It's only logical to regulators. . . . Customers today are also telling us -- and anyone else who will listen -- that they want more than just local and long distance phone service combined. They want wireless, on-line, cable TV, and entertainment in their communications services bundles too. Our job is to develop the bundles of service they most want. And we'll do it by bringing the power of our brand to bundles. The right bundles strengthen our bonds with customers and increase retention rates. And, as new combinations of communications bundles become possible, the first company to satisfy people's needs for those bundles gains a great advantage. They establish a bond that even the promise of lower prices won't break.[18]

The Commission should not skew the marketplace and limit competition by denying BOCs the ability to use this important tool, particularly since its competitors have every intention of using it to full advantage.

E. Other Restrictions are Likewise Unnecessary

In addition to seeking full structural separation and joint marketing restrictions, some parties ask the Commission to impose other limitations and restrictions on the BOCs. For example, CompTel asks the Commission to define in-region service to include calling card, collect, and third-party calls made to in-region lines. This request, which is designed to shield CompTel members, many of whom are operator service providers, from additional competition, is inconsistent with the express terms of the 1996 Act. The 1996 Act is quite explicit as to what services constitute in-region services. In

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18 AT&T Remarks, supra.

addition to the obvious services, the definition includes "800 service, private line service, or their equivalents that (1) terminate in an in-region State of that Bell operating company, and (2) allow the called party to determine the interLATA carrier.[19] Calling card, collect, and third-party calls that are placed from out-of-region do not fall within this definition because it is the calling party, not the called party, that determines the long-distance carrier that will handle such calls. The calling party decides whether to complete the call on a 0+ basis or use access codes, and if he/she chooses to use an access code, he/she decides which one. Because operator service calls are outside the definition of in-region services in the 1996 Act, CompTel's request must be denied.

A number of parties ask the Commission to condition nondominant status on the establishment of restrictions that prohibit the sharing of customer information between BOC local exchange and out-of-region operations[20] or require BOCs to make any information given to its long-distance unit available on the same terms and conditions to other interexchange carriers.[21] The 1996 Act, however, addresses the treatment of customer proprietary network information in detail. It prescribes rules that are designed to protect customers' privacy and promote competitive fairness. Additional restrictions are not only unnecessary, but inconsistent with the Act.

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19 Section 271(j) (emphasis added).

20 AT&T Comments at 7; TRA Comments at 21.

21 Cable and Wireless Comments at 4.

Moreover, this issue is nothing more than a red herring. The BOCs will be entering the out-of-region marketplace with no customers. In contrast, the incumbent carriers have substantial embedded customer bases and they have information about the calling patterns of each of their customers, as well as their former customers. They have far more information about out-of-region customers than any BOC could possibly have. As AT&T acknowledges, "[w]e now have a database with information about nearly 75 million customers. We know their wants, needs, buying patterns, and preferences."[22] Any information a BOC might have relevant to out-of-region service pales in comparison to what its competitors have. There is no need for the Commission to step in here.

MCI asks the Commission to impose on BOC out-of-region affiliates "stringent accounting safeguards."[23] For example, MCI requests that the Commission require BOC out-of-region affiliates to comply with Part 32 accounting and Part 36 Separations procedures. MCI maintains that Part 32 accounting should be required to facilitate the merging of books in the event the Commission permits BOCs to provide out-of-service on an unseparated basis in the future. It asserts that Part 36 records should be required so that, in the event structural separation requirements are lifted, the Commission can "understand the impact that a joint intrastate (local and interexchange)/interstate offering would have on jurisdictional separations results.[24] It also asks the Commission to establish a "four-way cost allocation

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22 AT&T Remarks, supra.

23 MCI Comments at 18-23.

24 Id. at 23.

and affiliate transaction monitoring regime so that it can oversee the precise extent and nature of the BOC interexchange affiliate's relationships to all of its affiliates, regulated and nonregulated."[25]

These measures are wholly unnecessary. First, they assume that the Commission will establish a separate affiliate requirement for out-of-region service. As discussed above, no such requirement should be imposed. Second, these rules are all based on a cost of service/rate of return mode of regulation under which the Commission was required to police LEC accounting and cost allocation practices to ensure that rates properly reflected costs. As noted, the Commission has recognized that price cap regulation -- particularly pure price caps -- effectively eliminates any incentive for misallocating costs. Thus, these sections are unnecessary, particularly as applied to BOCs that are subject to pure price caps in all jurisdictions. Third, at least for now, the BOCs remain subject to cost accounting and cost allocation rules in their provision of interstate access services.[26] These rules already ensure that a BOC cannot shift costs from any long-distance affiliate the Commission may require to its local exchange and access services. There is no reason in the world why the Commission should concern itself with any other form of cost-shifting.

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25 Id. at 19-29.

26 The Joint Audit report with respect to Ameritech which MCI cites found primarily a lack of sufficient written documentation for certain allocations, as opposed to actual misallocations of cost. Moreover, the affiliate transactions discussed in the report involved relatively minor amounts of money and therefore raised no significant issue of cross-subsidization. Ameritech contests all of the findings in the report and notes that two independent accounting firms -- one working on behalf of the Illinois Commerce Commission -- conducted similar audits for the same period and found no significant discrepancies. Significantly, the Consent Decree concluded action on the Joint Audit without any finding of wrongdoing, violations, or liability. Consent Decree Order, Ameritech, AAD 95-75, FCC 95-223, released June 23, 1995.

MCI, however, argues that the Commission should impose strict accounting rules on BOC out-of-region affiliates to ensure that those affiliates properly allocate costs between themselves and all other BOC affiliates or operations, including nonregulated ones. This argument is perhaps the best illustration of the lengths to which MCI will go in raising baseless arguments in order to obtain regulatory advantages. It is premised on the notion that a BOC could shift costs between its out-of-region affiliate and, for example, its customer premises equipment operations or its enhanced services operations. To what end such cost shifting would occur is beyond Ameritech's comprehension. Since all of these services are fully competitive, and none are subject to any form of rate-of-return regulation, cost shifting among them is not a possibility.

F. Conclusion

For the reasons discussed above, the Commission should rule that the BOCs are nondominant in the provision of out-of-region services, regardless of whether such services are provided on an integrated or separated basis.

The Commission should also rule, at least for BOCs subject to pure price caps in all jurisdictions, that out-of-region services will not be treated as nonregulated services for Part 64 purposes.

Respectfully Submitted,

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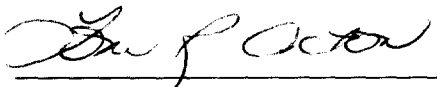
CERTIFICATE OF SERVICE

I, Toni R. Acton, do hereby certify that a copy of the foregoing Ameritech Reply has been served on the parties listed on the attached service list, by first class mail, postage prepaid, on this 25th day of March, 1996.

By: 

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